IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.8642 OF 2004

Smt. Sayarbai P. Purohit
& Others .... Petitioners
Vs.
Shrigopal Fatechand Ruia
& Anr. .... Respondents

Shri M.K. Jain for the Petitioners.

Shri Nilesh Shah for the Respondents.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: OCTOBER 25, 2004

P.C:

Heard. Undisputedly, the petitioners had not produced any evidence in support of their contention that the arrears of rent were paid to the respondents/landlord. It is the contention of the petitioners' Advocate that the petitioners are in possession of the documents disclosing payment of rent. Undisputedly, even at the stage of the appeal, the petitioners did not produce any such evidence nor sought any leave under Order 41, Rule 27 of the C.P.C. to produce documentary evidence, if at all the petitioners were in possession of such documentary evidence to establish their contention that they do not owe any rent to the respondents/landlord and that there was no default in the payment of rent. Undisputedly, the

eviction has been ordered on the ground of default in payment of rent. It was sought to be contended that by setting aside the impugned order, the matter be remanded to allow the petitioners to lead evidence in the matter. Once the petitioners, inspite of having been given opportunity to lead evidence in the matter, failed to avail such opportunity and did not take proper steps even at the appellate stage to disclose the documentary evidence in their possession, it is too late for the petitioners to contend that the petitioners should be given further opportunity to lead evidence in the matter. There being no illegality disclosed in the impugned order nor there is any arbitrary exercise of jurisdiction by the Courts below in decreeing the suit for eviction of the petitioners from the suit premises, there is no case made out for interference in the impugned order in writ jurisdiction under Article 227 of the Constitution of India. Hence the petition fails and is hereby rejected.